

ted to represent them in the congress of the United States, are the friends, and patrons, and the active, zealous, and persevering promoters of the cause of temperance. Let them see that this blessed cause has taken possession, even of the capitol, and that it will hold possession; and from this elevated spot, this strong hold of liberty, will extend itself over the whole country. He then expressed his readiness to aid in publishing the addresses which had been delivered, and in their circulation thro' the land.

THE JUDICIARY BILL.—Nullification.
EXTRACT FROM A SPEECH OF MR. CLAYTON OF GEORGIA.

Take the next and apply the test. "To borrow money on the credit of the United States." The next: "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes." Every one knows, that in all our commercial regulations, faithfully intended as such, and obviously belonging to that subject, there never has been any complaint. It is only when Congress departed from the true object of this clause, to take in something more than its words or spirit conveyed—something that belonged to the municipal interest of the States, local and partial, that the inequality commences and the test fails. Take the next power, and our rule immediately applies—"To establish a uniform rule of naturalization." And again: "To coin money, regulate the value thereof, and fix the standard of weights and measures." Does not every one perceive, that it is not possible for Congress to devise a law on any of these powers that shall give a greater advantage to one State than to another. This is equally true as to all the other powers in the Constitution, and I invite gentlemen to a careful examination of the fact. It is only when we leave the letter of the power, and are feeling for something else carefully lodged away among the reserved rights of the States, with a view to filch them from those governments, that any possible difficulty can occur. For instance, in order to get this eagerly sought right to protect manufactures, which not a solitary syllable, word, sentence, clause, paragraph, or article of that instrument, mentions, in groping for it in the darkest parts that would furnish a pretext for the search, its friends have fallen upon the provision relating to the "common defence and general welfare," as best justifying it. Now, Mr. Speaker, I do not intend to argue this matter, so often discussed, and I beg gentlemen not to be alarmed at the mention of the "general welfare" principle; but they must excuse me, if, by way of putting this thing forever at rest, so that it shall no more be heard of among politicians, I read them the history of this same general welfare doctrine, from our old friend, Lord Somers, to ascertain if it can be possible our Constitution meant what he so profoundly describes. He commences:

"ENGLAND'S WANTS: Or, several proposals probably beneficial for England, humbly offered to the constitution of all good patriots in both houses of Parliament. The want of public spirits (meaning enterprise, not drinkables) hath occasioned the want of many public works of piety and charity—works necessary for the general welfare, or commodious and convenient for the people, or of ornament for the kingdom.

1. To supply this want, that, by such easy ways and means as are hereafter mentioned, there may be raised a public stock, to be put into the hands of commissioners accountable to the King.

4. For raising such public stock, it is proposed first, upon all such commodities as occasion either excess or luxury, wantonness, idleness, pride, or corruption of manners, there may be laid a large and extraordinary impost, as upon all wines, all strong drinks, tobacco, coffee, chocolate, sugars, spices, plums, all sorts of sweet meats, oranges, &c.; upon all silks, laces, ribbons, jewels, watches, plate, feathers, fringes, &c.; upon all fine linens, camblets; upon cards, dice, tables, bowls, &c.; upon all coaches, chariots, litters, sedans; upon all pictures, perfumery, paints for the face, looking glasses, &c. Moreover, a third part of all the gettings of comedians, rope dancers, mountebanks, lotteries, shows, &c. (By the by, a much better list of taxable articles than that furnished by our own tariff act.)

3. That according to the practice of the primitive christians, whose devotion was such that they thought no testament well made unless some considerable portion was thereby added to the church, no testament henceforth should be valid unless a 20th part of the legacies were given to the after named objects of general welfare and private uses. That a 40th part of all things recovered by law may be (as once among the Romans) assigned for public uses. That there be paid out of all marriage portions six pence in the pound, and something proportionably paid at the death and birth of every person not living on alms. Now the money of this public stock may be employed in these public uses following, viz.: For building work-houses in all convenient parts of this kingdom, for making rivers navigable, for building and repairing bridges, highways, sea banks, (breakwaters,) havens, moles, land marks, aqueducts; for setting up poor youths, for marrying poor maids, for relief of aged, impotent, decayed people, for maintenance of sick and maimed seamen, and pensions for old soldiers.

For the further increase of the price of wool it may be enacted that not only the dead should be clothed in wool, but that all the living, from the first of November to the first of May, shall be obliged to wear their clothes and hats made of wool.

That none but married men, or who have once been married, shall be, after the age of 35 years, capable of any office of profit or honor.

An act to encourage the making of all sorts of paper, of rough hats, of coarse canvass, of point lace, of silks, of scissors, of needles, to make vinegar, and box combs, gold and silver lace, some sort of silk, some sort of goldsmiths' ware, as spoons, forks, &c., which are made better in France than in England, and for all which vast sums of money is returned into France.

That, as in the reign of Edward the 2d, the number of attorneys was regulated, and 140,000 declared to be sufficient to serve this whole kingdom in that peaceable age; so now that the excessive number of lawyers and attorneys may be reduced to a competent number for this age, and some things in their pleadings reformed. What a shame to our nation is it, that so many evil and rapacious lawyers should be permitted to plead in behalf of known vicious persons, and of manifest oppressors, and in causes notoriously unjust—should be permitted to make a trade, not to minister justice, but to heap up riches and devour all the fat of the land.

That for redressing those high crimes, (so accounted by all God's people heretofore, though now in England little conscience is made thereof,) of willfully trying to rob God or the King, the one in his thythes, and the other in his tribute, customs, or revenues, by constant grumbings and mutinious complaints; it may be made a high offence for the future and very severe punishment inflicted at the discretion of the Majesty. (Quite a squinting Mr. Speaker, at the force bill.)

That members of Parliament should be compelled to wear a robe of vestment, that so they may be every where discerned, and receive their due respect, and be ashamed to be seen frequently in playhouses, dice-houses, cockpits, taverns, or houses of worse repute; or to be night walkers, &c. And during their attendance on Parliament, if they be found in such places and ways, out of their robe or vestment, then to lose their wonted privilege, according to the saying, "God giveth his angels charge over us to keep us, whilst we are in our ways, but out of our ways, no protection of angels to be expected."

The inequality of taxes upon several counties, hatched and contrived by designing men, with much partiality, in the late times of rebellion, is so great, that to regulate the same, would be a work well worthy the speedy act of Parliament. (Mind that, Mr. Speaker.)

And lastly, an act of Parliament for a solemn anniversary day of thanksgiving during the reign of our sovereign lord, the King now reigning, not only for the many signal and wonderful preservations of his royal person, both by sea and land, and of his right and title to this kingdom, maugre the late wicked contrivances, conspiracies, and associations of all his mortal enemies, but also for his most peaceable accession to his crown, with the universal good will and rejoicing of this whole nation and of all his other dominions."

Here, Sir, is one of the most regular built, scraped out, polished off, and well finished general welfare systems ever devised by the ingenuity of man, both as to the mode of taxation and the manner of disbursement. Now, Sir, if a member were to rise in his place, and under that provision in our Constitution upon which the American system is said to be founded, were to ask leave to introduce a bill to adopt my Lord Somers' plan, would it not create a universal smile; and how many votes do you suppose it would receive? And yet, Mr. Speaker, when examined, absurd as is this very system, it is not worse than that contended for to justify the vast expenditures of this Government. When once you assume the right to make appropriations for any one object of general welfare, not specially provided for in the Constitution, you are at sea without rudder or compass, and the million of objects which the discretion of Congress might imagine conducive to the general welfare, and as much within its jurisdiction as any one single object. Where do you get your powers for purchasing pictures, paintings, drawings, statues, busts, books for yourselves, for making fine gardens, aqueducts, water fountains, bridges and canals for the District of Columbia, McAdamizing the streets of Washington, and a thousand other things not now necessary to be mentioned? It is from the general welfare principle in the Constitution, and called by the name of "public spirit," by my Lord Somers.—"These works of piety and charity," of which he speaks, and wants nothing here but a "force bill," which it is now likely to obtain, to spread it over as many objects as you have just been amused with from our venerable author.

To return to the formation of the General Government. It seems that much of the present dispute turns upon the nature of sovereignty, and where it resides. One thing is admitted, that in this country the sovereignty belongs to the people; both the General and State Governments deduce their title to whatever they exercise, not what they possess, for they possess none, from this source; and the only disagreement is as to the extent of what has been conferred. I lay down this position, that sovereignty is either alienated or delegated—the first parts with it altogether, the last temporarily, and at the will of the

grantor. The first can never be resumed the latter can, at any and all times. European governments are founded upon the first; there is no such thing in this country as alienated sovereignty—it is all delegated. The monarchs of Europe possess the whole sovereignty; and whatever is parted with, by them, is a concession to the people, either gratuitously made by a good Prince, or forcibly wrung from a bad one, as in the case of *magna charta* and the bill of rights, from the Prince of Orange. Here the whole sovereignty is with the people, and whatever concessions are made, are to the Government, by delegation, for their benefit. The revolutionary war left thirteen sovereign and independent States, and if every thing which has been done since that time, in relation to the organization of the Federal Government, could be completely obliterated, and the thirteen States stand precisely as they did then, every one will perceive the truth of the assertion. Now, suffer me to draw upon your imaginations, for a moment, so as to suppose the recognition by Great Britain of independence had been signed yesterday. What then would be the character of the State Governments? I will be told that they would be under the articles of confederation. Then these admit their entire sovereignty. I have before stated that the sovereignty resides in the people of each State; but as all the people of each State could not meet, at a given place, to determine whether these articles of confederation should continue under their new relation of independence, or how far a change was rendered expedient by a great change of condition, (for as the confederation was principally designed for a state of war, it could not possibly answer that of peace,) it became necessary, therefore, to meet by representatives. When they did meet, there were thirteen sovereigns present, as much so as if the States had been left with monarchs at their head, and these monarchs had met for the purpose of appointing a general agent to perform certain acts, in which the whole had a common interest. Now, suppose, instead of the 17 powers conferred on the General Government in the constitution, to be executed by a President, a Judge and a member of Congress, representing the three departments of Government, these thirteen monarchs had given but one single power, and that to but one single individual, for the number of powers or of agents cannot vary the principle, subject to amendment by the consent of three-fourths of the contracting parties, and suppose that one power to be the regulation of commerce. How much sovereignty would be delegated to this individual? Surely only a seventeenth part of what has been delegated to the Federal Government (supposing seventeen to be the number of powers granted.) Now, does not every one perceive that the thirteen monarchs would remain sovereign over the other sixteen powers not granted? and, if so, are they not equally so over all those powers which are denominated reserved rights? for, the sixteen powers now become reserved rights. They, and the one power just mentioned, originally came from that mass. Each monarch has delegated, not alienated, his right to regulate commerce to a particular individual. Before they part, however, and just as they have delivered over their power of attorney to their agent, nine of the monarchs ask the agent if, in the exercise of his one power, he cannot so contrive it as to prohibit commerce altogether, for the purpose of protecting their manufactures? He replies he can. Now, who is to judge of this? Here is a case made at once, and before the parties separate. Four of the monarchs protest against such a power. Will any one say the agent himself ought to do it? Then he inevitably takes all the powers of all the monarchs; for, by the same rule that he judges in one case, he can in a million, as to the extent of his powers. And is it right or just that he, who but a moment before was a perfect blank, and was chosen, not for his own benefit of each and the whole of the parties, should instantly become a conduit to pass the rights of one portion of the monarchs into the possession of the others, and the injured party have no other redress than what depends upon his self-serving judgment. What then is to be done? It will not surely be said that, inasmuch as the other nine monarchs constitute a majority, that, therefore, they have a right to determine the matter? The compact is founded upon no such principle; indeed, it is declared that any amendment of the instrument must receive the consent of three-fourths. Well, then, can any one be so blinded as not to perceive that an honest, faithful, and fair execution of the compact would result in this arrangement, viz: The four monarchs would say, Mr. Agent, you have no right to grant what these others have asked you; now, before we separate, we insist that you submit that instrument back to the whole of us, and if three-fourths will determine that you have the power, (for that number can give it to you under our agreement, and it can make no possible difference whether it is formally conferred or declared to exist,) we will submit. If you will not, you shall not exercise that power within our respective kingdoms; and if these other nine monarchs attempt to aid you in this usurpation, we now tell them we will resume that portion of the trust which we have just delegated, and dissolve the agreement. So let us understand each other before we part, because, if you design to persevere, we will break up at once, and form no connection. The nine monarchs and this bribed and corrupt agent declare they will go on. Is there a man here, or in any hole or corner of this wide

world, who will have the hardihood to contend that the four monarchs must submit to this fraud, engendered before the ink was yet dry upon the instrument that contained their signatures? And if they ought not then, how is the thing varied by the intervention of time? If it would be fraud then will it not be fraud now? Are we to lose rights because of the complication of machinery necessary to protect them? Are we to submit to wrongs because of the doubts which the operation of compound agencies sometimes creates? Strip this whole matter of all extrinsic circumstances used for the purpose of executing the powers of government, analyze it till it is bro't down to the simple elements I have presented, and in the name of every thing that is just and holy, can any man so torture and pervert the meaning of things as to arrive at a different result?

To vary the illustration, let me present another view. It was said by an able speaker in another part of this building, that the people can form as many governments as they please, and that the people of the whole United States have formed the General Government as well as their State Governments. Now let this be granted. But will he contend that these governments are not as wholly independent, as governments, of each other, as if they were foreign to each other? Is not the State Government of Massachusetts independent of the State Government of Georgia, and are they not both independent of the General Government so far as respects their reserved rights? Can Georgia legislate upon any of Massachusetts' reserved rights? I shall be answered no, at once. Well, if she cannot, will it be pretended that Congress can? I suppose not; but then again the question recurs, who is to decide the question of interference? I think, Mr. Speaker, I can give the answer that must settle the question. Recollect that we have just determined that neither Georgia nor the Government can legislate upon the reserved rights of Massachusetts. Now, suppose Georgia should pass a law declaring that Massachusetts, nay, all the States, by way of making the law general, should pay a tax to her upon their exports? Would Massachusetts leave the decision of the right to impose this tax to the courts of Georgia? Who believes it? Would she leave it to the federal court? Certainly not. Then to whom would she leave it? Why, to no earthly power but herself. She would declare the law null and void, as in the case of the boundary of Maine, and not "obligatory upon her people." She would "interpose her authority to prevent its operation within her limits." If she has the right to interpose, she has the choice of means. And whether by arms or legislation she effects this interposition, it is for herself and no one else to judge and determine. To this reasoning there can be no objection. Now, suppose that Congress passes precisely such a law as that of Georgia's, imposing the same tax? In what will the cases differ? Think you Massachusetts would leave the question to the Supreme Court? To what other conclusion could she come but the one in the Georgia case, if she is independent of both Governments in reference to her reserved rights? If she would nullify as to Georgia, what is to hinder her from nullifying as to the General Government? they stand upon the same footing. But there is another view that I think still more conclusive of the right of a State to protect her reserved rights. Suppose, at the formation of the Federal Government, the States, or rather the people of each State, has possessed, severally, only twenty powers; they meet in convention, as States, and confer ten of these powers on the General Government, and keep the other ten to themselves, respectively. Now, mark, they were supreme over all the twenty powers before they granted ten away, consequently they continue supreme over those not granted. Both Governments go into operation perfectly supreme over their respective ten powers. Suppose the States pass a law violating one of the ten granted powers, what do you suppose the General Government would do? The answer is ready: she would not regard it; she would not suffer it to operate within her limits; in fine, she would nullify it. Will any one point out to me any good reason why the States may not be permitted to do the same thing, if Congress passes a law violating one of their ten reserved rights? If they are independent Governments, perfectly supreme over their respective ten powers, what one can do to protect itself, the other certainly can. It is a bad rule that don't work both ways. If the Federal Government can defend its granted powers, surely the States may do the same thing as to their reserved rights; and whatever plan the one may adopt, to effect the object, precisely that may be employed by the other. The provision that the "constitution and the laws of the United States, which shall be made in pursuance thereof, shall be the supreme law of the land," is not stronger or more extensive than the one which asserts that "the powers not delegated to the United States, are reserved to the States respectively, or to the people."

I know the sovereignty of the States is now laughed at, and the proclamation has done more to bring their rights into contempt, than all the other attacks united since the triumph of republicanism in '98. It is now urged by that instrument, by its federal friends and the bill on your table, that the States may be sovereign but their people shall be subjects. They will not war against the States, as States, but they will hold their citizens answerable, individually, for the acts of their governments.